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January 10, 2021

Application granted. Probation to
update PSR to reflect no detainers.
SO ORDERED:

By ECF

Honorable William H. Pauley
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007


WILLIAM H. PAULEY III
U.S.D.J.

January 11, 2021

United States v. Jerylan Marquez-Ortiz,
18 Cr. 336 (WHP)

Your Honor:

I write with the consent of the Probation Office and the government to request, respectfully, that Jerylan Marquez-Ortiz's PSR be ordered amended to reflect that Mr. Marquez-Ortiz has no detainers.

The reason for the request is as follows. Mr. Marquez-Ortiz's release date is July 11, 2021, and he has been eligible to be transferred to a halfway house for several months now. In November, I learned that FCI Schuylkill, where Mr. Marquez-Ortiz is housed, wanted to release him to a halfway house immediately. Mr. Marquez-Ortiz is obese, has high blood pressure, and suffers from serious renal issues. Releasing him from the prison is an urgent priority.

FCI Schuylkill, however, relies on the PSR to determine whether there is a detainer, and individuals with detainers are not eligible for halfway houses. Brittany Haulman, of FCI Schuylkill, informs me that the records department interprets two paragraphs in Mr. Marquez-Ortiz's PSR as suggesting that there might be a detainer, although the jail is not sure, and they will not release him to a halfway house absent clarification. The two relevant PSR paragraphs state that Mr. Marquez-Ortiz was arrested for petty offenses in 1997 and 2007 in Allentown, and there are no records of the dispositions. *See* PSR ¶¶ 51-52. The jail believes the absence of disposition records creates risk that there is a detainer. Counsel's and the prison's requests for clarification

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from Allentown authorities have fallen on deaf ears. But we know that Mr. Marquez-Ortiz has been arrested, and released, in Allentown since 2007 (PSR ¶¶ 53-55), so it seems almost impossible that there could be a detainer from those older cases.

Last week, we corresponded with Sampson Choo of the United States Marshals Service in this District. The Marshals routinely check for detainers. Mr. Choo informed us that there were no detainers for Mr. Marquez-Ortiz when he was in Marshals custody in this District last year. As a result, there cannot be any detainers from Mr. Marquez-Ortiz's 1997 and 2007 arrests in Allentown, and he is eligible to be transferred immediately to a halfway house. Rather, what appears to have happened is that a small-town courthouse – small, I should say, by New York standards – simply lost records of older petty offense dispositions.

In light of Mr. Choo's confirmation about the absence of detainers, neither the Probation Office nor the government object to amending Mr. Marquez-Ortiz's PSR to state that there are no detainers. The Probation Office informs me, however, that it is not able to revise the PSR on its own at this stage absent an order from the Court. The need for this revision is pressing as Mr. Marquez-Ortiz is in terrible health – he is morbidly obese with elevated blood pressure and serious renal issues. Hopefully, if the PSR is amended, the prison will promptly transfer Mr. Marquez-Ortiz to a halfway house, obviating the need for a compassionate release motion.

For the foregoing reasons, I respectfully request that the Court order Mr. Marquez-Ortiz's PSR amended to state that he has no detainers. I conferred with Probation Officer Jemmard Thomas, and he does not object. Assistant United States Attorney Daniel Nessim informs me that he defers to the Probation Office. Thank you for your consideration.

Respectfully submitted,

/s/ Benjamin Silverman
James Roth
Benjamin Silverman
Attorneys for Jerylan Marquez-Ortiz

cc: Counsel of record (by ECF)
Probation Officer Jemmard Thomas (by email)
Jerylan Marquez-Ortiz (by U.S. mail)